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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/606,787	06/28/2000	Bich Nguyen	2705-125	6324
20575	7590	12/02/2005		
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			EXAMINER HALIM, SAHERA	
			ART UNIT 2157	PAPER NUMBER

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/606,787	Applicant(s) NGUYEN ET AL.	
	Examiner Sahera Halim	Art Unit 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is response to the communication filed on June 2, 2005.
2. Claims 1-21 are presented for examination.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 4, recites the limitation "wherein the monitoring means" in line 1 of the claim.

There is insufficient antecedent basis for this limitation in the claim. For examination purposes it is read as "wherein monitoring means".

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1 -21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,680,910 to Ni in view of U.S Pat. No. 6,490,250 to Hinchley et al. (hereinafter Hinchley).
7. Reference to claim 1, Ni disclose a server comprising:

a transmit buffer for transmitting a plurality of frames of stored data to a network (See fig. 2, frames are stored on memory 290 and buffer 270 transmit the stored frames);

a network bandwidth monitor for monitoring a bandwidth of the network preceding each frame transmission (col. 2, line 29 – 34, the network interface monitors the bandwidth utilization);

Ni teaches utilization of flow control frames to control the rate of data transmission over the network (col. 3, lines 16 – 34). Depending on the bandwidth utilization or receive rate, the frequency at which the flow control frames are sent is increased and decreased. A threshold level is implement and when the threshold is exceeded, the frequency of sending flow control frames increases (col. 4, line 8 – 39).

Ni does not explicitly teach a transcoder for transcoding a frame into a reduced data content frame if the monitored bandwidth for the corresponding frame transmission is less than a first preset value, the transcoding capable of increasing a rate that each reduced data content frame is transmitted from the buffer over the network for the corresponding monitored bandwidth.

However, Hinchely teaches a transcoder for transcoding a frame into a reduced data content frame if the monitored bandwidth for the corresponding frame transmission is less than a first preset value, the transcoding capable of increasing a rate that each reduced data content frame is transmitted from the buffer over the network for the corresponding monitored bandwidth (abstract and col. 1, line 62 – col. 2, line 24). Thus it would have been obvious for a person having ordinary skill in the art at the time of the invention to replace Ni flow control

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fames with Hinchely's transcoders in order to control congestion over the network (col. 3, lines 18 – 57).

8. As to claim 2, Ni teaches the server of claim 1, wherein the transcoder increases the rate that the frames are transmitted above a receiver play out rate for a period of time after the monitored bandwidth of the network rises above the first preset value (col. 4, line 6 - 67).

9. Regarding claim 3, Ni and Hinchley do not teach a redundancy encoder for redundancy encoding the transcoded data if the monitored bandwidth is less than a second preset value. However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use a redundancy encoder to keep encoding the content till it is transferable over the network without losing any data in order to ensure that the end user is able to read the receiving data.

10. As to claim 4, Ni and Hinchley do not teach wherein the monitoring means includes a control unit for activating the redundancy encoder when the monitored bandwidth is less than the second preset value. However it would have been obvious to a person having ordinary skill in the art at the time the invention was made to keep encoding the content till it is transferable over the network without losing any data in order to ensure that the end user is able to read the receiving data.

11. Regarding claim 5, Ni and Hinchely do not teach wherein the first preset value equals the second preset value. However, it would have been obvious to one having ordinary skill in the art at the time of the invention to set the two values equal to each other in order to take all conditions into account.

12. Regarding claim 6, Ni disclose a server for transmitting data to a network, comprising:
transmitting means for transmitting data to the network (See fig. 2, frames are stored on memory 290 and buffer 270 transmit the stored frames);

monitoring means for monitoring a bandwidth of the network (col. 2, line 29 – 34, the network interface monitors the bandwidth utilization);

Ni teaches utilization of flow control frames to control the rate of data transmission over the network (col. 3, lines 16 – 34). Depending on the bandwidth utilization or receive rate, the frequency at which the flow control frames are sent is increased and decreased. A threshold level is implement and when the threshold is exceeded, the frequency of sending flow control frames increases (col. 4, line 8 – 39).

Ni does not explicitly teach a transcoder means for transcoding the data if the monitored bandwidth is less than a first preset value;

However, Hinchely teaches a transcoder for transcoding a transcoder means for transcoding the data if the monitored bandwidth is less than a first preset value (abstract and col. 1, line 62 – col. 2, line 24). Thus it would have been obvious for a person having ordinary skill in the art at the time of the invention to replace Ni flow control fames with Hinchely's transcoders in order to control congestion over the network (col. 3, lines 18 – 57).

Moreover, Ni and Hinchley do not teach a redundancy encoder for redundancy encoding the transcoded data if the monitored bandwidth is less than a second preset value. However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use a redundancy encoder to keep encoding the content till it is transferable over the network without losing any data in order to ensure that the end user is able to read the receiving data.

13. As per claims 7-21, they do not teach or further define over the limitations recited in the claims 1-5. Therefore, claims 6-21 are rejected for the similar reasons set forth in claims 1-6, *supra*.

Response to Arguments

14. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sahera Halim whose telephone number is (571) 272-4003. The examiner can normally be reached on M-F from 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sahera Halim
Patent Examiner
AU: 2157

November 29, 2005



ARIO ETIENNE
PRIMARY EXAMINER